

U.S.S.N. 09/759,845
Amendment dated August 25, 2005
Reply to Office Action of March 25, 2005

REMARKS

Responsive to the Official Action mailed March 25, 2005, reconsideration is respectfully requested.

In the Action, the Examiner has rejected the pending claims under 35 U.S.C. §103, with reliance upon U.S. Patent No. 6,191,221, to McAmish et al., in view of European Patent No. 0570215, to Ferrar et al., further in view of U.S. Patent No. 5,762,643, to Ray et al., with further reference to U.S. Patent No. 5,366,786, to Connor et al., U.S. Patent No. 5,482,765, to Bradley et al., and U.S. Patent No. 5,540,976, to Schawvner et al. However, it is respectfully submitted that the diverse teachings of these references cannot be properly combined to teach or suggest applicants' novel laminate material construct, as set forth in the pending claims, and accordingly, the Examiner's rejections are respectfully traversed.

As discussed previously, applicants' invention is directed to an improved breathable laminate construct, including a spunbond polypropylene nonwoven fabric layer, and a breathable polymeric coating extrusion coated on the nonwoven fabric. By virtue of the desired breathability, liquid impermeability, and strength properties, this novel laminate construct can be economically and effectively employed for so-called "housewrap" applications, for which the construct must exhibit a desired combination of physical properties for effective use.

The novelty of applicants' claimed laminate has been acknowledged by the Examiner, but applicants must respectfully maintain that the combined teachings of the references cited in the Action do not teach or suggest applicants' novel product. As previously noted, the principle reference, the commonly-owned McAmish et al. patent, is not believed to teach or suggest applicants' novel laminate construct, but rather concerns a product in which formulation of the

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breathable polymer film layer permits the breathability characteristics of the resultant laminate to be selectively tailored.

As noted by the Examiner, the "full teaching" of McAmish et al. states that "since the film resides on a layer of one side of the fabric, the basis weight of the fabric is not critical, and depends on the end-use of the product". In other words, it is clear that the principle reference fails to teach or suggest not only the claimed basis weight range for the spunbond polypropylene nonwoven fabric layer of applicants' novel laminate, but further, has no teaching or suggestion relating to the claimed viscosity range for the polypropylene polymer which provides the desired strength characteristics for applicants' laminate construct.

The Examiner has relied upon the teachings of the Ferrar et al. patent, but as previously noted, this reference *does not* teach the provision of an *extrusion coated* breathable film coating, and has no teachings relating to providing a spunbond polypropylene nonwoven fabric layer having applicants' claimed viscosity range.

Thus, the combined teachings of the principle McAmish patent, and the secondary Ferrar et al. patent fail to teach or suggest applicants' specifically recited, novel breathable laminate construct.

In the Action, the Examiner refutes applicants' position that their invention is more than "mere optimization", with respect to the claimed viscosity range, and states that applicants have "not provided sufficient evidence" to establish that the claimed viscosity polymer would product the increased strength properties when compared to more commonly used viscosity ranges (see Official Action, page 5).

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Applicants must respectfully submit that they have provided *exactly this type of evidence* in Table 1 of their Specification, wherein they specifically show the significantly enhanced strength characteristics exhibited by the high strength spunbond polypropylene fabric, employed in practicing their invention, when compared with a typical spunbond polypropylene fabric, produced on the same equipment (note significantly improved grab tensile strength, as per STMD 5034-95). Applicants must respectfully disagree that the presented data "cannot be relied on to show any improvements", when in fact, the data which is presented *clearly shows the significantly enhanced grab tensile strength*. Thus, applicants must respectfully maintain that they have, in fact, provided precisely the type of evidence to which the Examiner refers.

In the Action, the Examiner further states "it is unclear if the difference in properties is actually due to the difference in viscosity or the difference in processing conditions". Applicants must respectfully maintain that it is *crystal clear* from their disclosure that the enhanced physical properties of the claimed spunbond polypropylene nonwoven fabric layer are a direct result of applicants' claimed polymer viscosity range, and not merely the processing conditions. At page 6 of their specification, applicants disclose, with perfect clarity to those skilled in the art, the processing conditions by which the nonwoven fabric layer of their novel laminate was produced. Those skilled in the art will readily appreciate that processing conditions must frequently be selected *depending upon the characteristics of the polymer*, in order to assure the desired "steady state" operation of the sp unbonding equipment, without unacceptable polymer degradation, while maintaining the necessary integrity of the spunbond fabric being formed. Those skilled in the art will readily appreciate the desired properties cannot simply be "dialed-in" by the processing conditions above, and indeed, that is not what applicants have claimed.

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Rather, applicants have claimed formation of a spunbond polypropylene nonwoven fabric layer, exhibiting certain properties, formed from a polymer exhibiting claimed properties.

In the Action, the Examiner states that the applicants provide "no detail at all in the disclosure as to how one would choose the processing conditions to produce the desired strength properties". Again, it is *the selection of the polymer properties, and the provision of a nonwoven fabric having the claimed properties*, to which applicants' novel laminate construct is directed. It is respectfully maintained that those skilled in the art would fully understand from applicants' disclosure how to practice the present invention, and that, in fact, sufficient processing conditions are provided to enable those skilled in the art to easily and readily practice the invention (see page 6 of applicants' Specification).

In the Action, the Examiner has relied upon not only the above McAmish et al. patent, Ferrar et al. patent, and Ray et al. patent, but further, on page 6 of the Action, cited three additional references for support of her rejection under 35 U.S.C. §103. In essence of acknowledging that the McAmish et al., Ferrar et al., and Ray et al. references do not together teach or suggest applicants' claimed laminate, the Examiner relies upon the further prior art references cited at page 6 of the Action. Applicants respectfully refer to M.P.E.P. Section 2143.01, which specifically mandates that "the prior art must suggest the desirability of the claimed invention" (citations omitted), and caution that the "fact that references can be combined or modified is not sufficient to establish prime facie obviousness" (citations omitted). Applicants must respectfully note that it is *not* evident that the references themselves, including the at least four references upon which the Examiner relies in her rejection, would suggest that their teachings be combined to arrive at applicants' novel breathable laminate construct.

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In view of the foregoing, formal allowance of claims 1, and 3-13 is believed to be in order and is respectfully solicited. Should the Examiner wish to speak with applicants' attorneys, they may be reached at the number indicated below.

The Commissioner is hereby authorized to charge any additional fee which may be required in connection with this submission to Deposit Account No. 23-0785.

Respectfully submitted,

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